

**Supporting Statement for the
International Applications and Prior Notifications Under Subpart B of Regulation K
(FR K-2; OMB No. 7100-0284)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the International Applications and Prior Notifications Under Subpart B of Regulation K (FR K-2; OMB No. 7100-0284). Foreign banks are required to obtain the prior approval of the Federal Reserve to establish a branch, agency, or representative office; to acquire ownership or control of a commercial lending company in the United States; or to change the status of any existing office in the United States. The Federal Reserve uses the information, in part, to fulfill its statutory obligation to supervise foreign banking organizations with offices in the United States. The total annual reporting burden is estimated to be 630 hours.

The FR K-2 reporting form consists of a cover sheet and the following five attachments for the application and notification requirements embodied in Subpart B of Regulation K:

- Attachment A – Information Requested in Connection with Applications by Foreign Banks to Establish Branches, Agencies, or Commercial Lending Companies in the United States (section 211.24(a)(1) of Regulation K)
- Attachment B – Information Requested in Connection with Applications by Foreign Banks to Establish Representative Offices in the United States (section 211.24(a)(1) of Regulation K)
- Attachment C – Information Requested in Connection with Notifications by Foreign Banks to Establish Branches, Agencies, or Commercial Lending Companies in the United States (section 211.24(a)(2)(i)(A) of Regulation K)
- Attachment D – Information Requested in Connection with Notifications by Foreign Banks to Establish Representative Offices in the United States (section 211.24(a)(2)(i)(B) (1) – (3) of Regulation K)
- Attachment E – Commitments Required in Connection with Applications and Notifications by Foreign Banks to Establish Branches, Agencies, Commercial Lending Companies, or Representative Offices in the United States.

Background and Justification

The Foreign Bank Supervision Enhancement Act of 1991 (FBSEA), Subtitle A of Title II of the Federal Deposit Insurance Corporation Improvement Act of 1991, expanded the authority given to the Federal Reserve under the International Banking Act of 1978 (IBA). The FBSEA provided the Federal Reserve with new authority to approve the establishment of U.S. offices by foreign banks and to regulate and supervise the U.S. operations of foreign banks. The Federal Reserve modified Regulation K in 1993 to incorporate these statutory changes.¹ Regulation K was revised again in November 2001.

Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the Federal Reserve may approve an application to establish a branch or agency subject to certain

¹ 58 *Federal Register* 6348 (January 28, 1993)

conditions even if the Federal Reserve is unable to find that the foreign bank is subject to comprehensive consolidated supervision. Specifically, the Federal Reserve may approve an application by such foreign bank if: (i) the appropriate authorities in the home country of such foreign bank are working to establish arrangements for the consolidated supervision of such bank; and (ii) all other factors are consistent with approval.²

Prior to the 2002 revisions, the FR K-2 application requirements were contained in a directive to Reserve Bank staff dated March 5, 1992 (SR 92-6). The revisions consisted of implementing a reporting form with filing instructions in addition to the informational requirements contained in SR 92-6. The reporting form clarified and streamlined the information required in international applications and prior notifications and reduced the need for repeated requests for additional information after the application or notification has been filed.

Description of Information Collection

In order to approve an application by a foreign banking organization to open a branch, agency, or commercial lending company in the United States, the Federal Reserve generally seeks to determine that the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country. In evaluating an application to establish a representative office, the Federal Reserve takes into account the standards that apply to the establishment of branches and agencies, but a finding of comprehensive consolidated supervision is not required. The applicant foreign bank also must provide a complete organization chart, financial information, and information regarding certain of the bank's senior officers, major shareholders, and proposed management of the U.S. office.

With regard to the proposed U.S. office, the applicant foreign bank must describe the types of business to be conducted and the types of services to be offered. Further, the applicant and its ultimate parent(s) must provide adequate assurances that the Federal Reserve will have access to such information as the Federal Reserve deems necessary for it to determine and enforce compliance with applicable U.S. law. The applicant must describe any secrecy laws or other impediments that would restrict the ability of the applicant and its ultimate parent(s) to provide information to the Federal Reserve as needed.

Time Schedule for Information Collection

The applying or notifying organization submits the FR K-2 information collection in accordance with the application and notification requirements embodied in Subpart B of Regulation K to the Federal Reserve Bank with supervisory responsibility for that banking organization.³ Upon receipt of an application or notification, the Federal Reserve Board and

² In deciding whether to approve an application under this lesser standard, the Federal Reserve also considers whether the foreign bank has adopted and implemented procedures to combat money laundering and shall take into account whether the home country supervisor is developing a legal regime to address money laundering.

³ If the foreign banking organization does not currently operate in the United States, the application is submitted to the Federal Reserve Bank in whose district the proposed office will be located.

Reserve Bank review the submission for completeness. The Federal Reserve is required to act on applications to establish a branch or agency within 180 days of receipt of the application unless such period is extended by an additional 180 days. Information from the FR K-2 is not published.

Legal Status

The Board's Legal Division has determined that this collection of information is mandatory pursuant to sections 7, 10, and 13 of the IBA (12 §§ U.S.C. 3105, 3107, 3108). These statutory provisions are implemented by Subpart B of the Board's Regulation K. (12 C.F.R. Part 211, subpart B). The applying or notifying organization may request that portions of the information contained in the FR K-2 be afforded confidential treatment. To do so, applicants must demonstrate how the information for which confidentiality is requested would fall within the scope of one or more of the exemptions contained in the Freedom of Information Act. Any such request would have to be evaluated on a case-by-case basis.

Consultation Outside the Agency

On December 28, 2010, the Federal Reserve published a notice in the *Federal Register* (75 FR 81607) requesting public comment for 60 days on the extension, without revision, of the International Applications and Prior Notifications Under Subpart B of Regulation K. The comment period for this notice expired on February 28, 2011. The Federal Reserve did not receive any comments. On March 10, 2011, the Federal Reserve published a final notice in the *Federal Register* (76 FR 13188).

Sensitive Questions

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines.

Estimate of Respondent Burden

The current annual reporting burden for Subpart B requirements of Regulation K is estimated to be 630 hours as shown in the following table. The current burden estimate is based on the number of responses received during a typical year. The reporting requirement of these applications and notifications represent less than 1 percent of total Federal Reserve System paperwork burden.

	<i>Average number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
FR K-2	18	1	35	630

The total annual cost to the public for this application is estimated to be \$26,523.⁴

Estimate of Cost to the Federal Reserve System

The cost to the Federal Reserve System of printing, mailing, and processing the FR K-2 is negligible.

⁴ Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rate (30% Office & Administrative Support @ \$16, 45% Financial Managers @ \$48, 15% Legal Counsel @ \$54, and 10% Chief Executives @ \$76). Hourly rate for each occupational group are the median hourly wages (rounded up) from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2008, www.bls.gov/news.release/ocwage.nr0.htm Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/